

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**APR 25 2006**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

MELCHOR INZA CRUZ SANTOS;  
REYNA SANTOS,

Petitioners,

v.

ALBERTO R. GONZALES,\*\* Attorney  
General,

Respondent.

No. 04-70021

Agency Nos. A93-277-788  
A77-110-786

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted April 6, 2006\*\*\*  
Pasadena, California

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* Alberto R. Gonzales is substituted for his predecessor, John Ashcroft, as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

\*\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: D.W. NELSON, O'SCANNLAIN, Circuit Judges, and JONES,  
District Judge\*\*\*\*

Melchor Inza Cruz Santos, a native and citizen of the Philippines, and his wife Reyna Santos, a native and citizen of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") summary affirmance without opinion of an immigration judge's ("IJ") denial of their applications for cancellation of removal. Petitioners subsequently filed a motion to reopen the case alleging that the IJ violated their due process rights, which the BIA denied. Petitioners did not file a petition for review of that decision.

We lack jurisdiction to review the agency's discretionary determination that the Petitioners failed to establish "exceptional and extremely unusual hardship." *See Romero-Torres v. Ashcroft*, 327 F.3d 887, 891 (9th Cir. 2003). We also lack jurisdiction to consider the BIA's denial of the Petitioners' motion to reopen based on an alleged violation of due process rights because the Petitioners did not file a petition for review within 30 days of that decision. *See Andia v. Ashcroft*, 359 F.3d 1181, 1183 n. 3 (9th Cir. 2004) (indicating that petitioner must file separate petition for review from denial of motion to reopen).

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\*\*\*\* The Honorable Robert C. Jones, District Judge for the District of Nevada, sitting by designation.

The voluntary departure period was stayed, and that stay will expire upon issuance of the mandate. *See Desta v. Ashcroft*, 365 F.3d 741, 747 (9th Cir. 2004).

**PETITION FOR REVIEW DISMISSED.**